

REMARKS

This responds to the Office Action mailed July 22, 2010. Applicants believe this response is timely and that no extension of time is needed or fees due. In the event this is not correct, applicants petition for an extension of time and authorize the commissioner to charge any fees due to Deposit Account No. 01-2300 referencing docket number 021305-00294.

Claims 10 and 11 are pending and amended. Claim 14 is new. Thus, with the entry of this amendment, claim 10, 11 and 14 will be active. No new matter is added with the amendment or new claim.

I. Priority

Applicants submit herewith a verified English translation of French application No. 0309962, filed August 14, 2003.

II. Objections to the Specification

The Examiner has requested standard headings be added to the specification. In response, applicants herewith amend the application referencing paragraph numbers, as published. Withdrawal of this objection is therefore respectfully requested.

III. Rejections under 35 USC § 112

The Examiner rejects claims 10 and 11 under 35 USC § 112, second paragraph, for the recitation of "at least one peptide" and "at least one antibacterial compounds," alleging that these terms render the claims confusing. The Examiner also objects to "the said" in claim 10, line 6.

In response, applicants have amended claims 10 and 11 to clarify the claimed invention. Withdrawal of this rejection is therefore respectfully requested.

IV. Rejection under 35 USC § 102

The Examiner has rejected claims 10 and 11 under 35 USC § 102(e) over “Avrameas” (US 2003/0199677). According to the Examiner, Avrameas teaches a composition comprising the cell-penetrating peptide, SEQ ID NO: 26, SEQ ID NO: 27 or SEQ ID NO: 46, each carrying an N-terminal cysteine, which is a spacer arm, that covalently couples the peptide to one substance of interest or some substances of interest such as an antibiotic, for internalization into cells *in vivo* or *in vitro* and for treating or preventing disease. The Examiner further asserts that the prior art peptide of SEQ ID NO: 26, SEQ ID NO: 27 or SEQ ID NO: 46 has a sequence that is 100% identical to SEQ ID NO: 1. Thus, according to the Examiner, Avrameas anticipates the inventions of claims 10 and 11 because such claims recite SEQ ID NO: 1. Applicants respectfully traverse this rejection.

First, applicants point out that claims 10 and 11 have been amended to remove SEQ ID NO:1 in favor of new claim 14, which does recite SEQ ID NO:1. Thus, claims 10 and 11 no longer recite SEQ ID NO:1 and for at least this reason, should be allowable. Thus, applicants respectfully request the Examiner to withdraw the rejection of amended claims 10 and 11.

With regard to new claim 14, applicants argue that this claim also is allowable over Avrameas. The Examiner cites SEQ ID NO: 26, SEQ ID NO: 27 or SEQ ID NO: 46, each of which is said to contain a peptide sequence that is identical to SEQ ID NO:1. The Examiner equates the N-terminal cysteine of each of these molecules with a spacer arm that covalently couples the peptide to one or more substance of interest. New claim 14 recites that the peptide is directly covalently bound to the antibacterial compound. Consequently, the peptide of claim 14 is not linked by way of a spacer arm. Because Avrameas discloses SEQ ID NO: 26, SEQ ID NO: 27 or SEQ ID NO: 46 which inherently possess a spacer arm, the amino acids in SEQ ID NO: 26, SEQ ID NO: 27 or SEQ ID NO: 46 that represent SEQ ID NO:1 of claim 14 cannot directly covalently bind to the

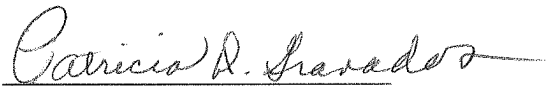
antibacterial compound. As such Avrameas does not anticipate the subject matter of new claim 14. Withdrawal of this rejection also is respectfully requested.

Applicants urge the Examiner to withdraw all rejections based upon the above amendments and explanations. However, applicants take this opportunity to also point out that amended claims 10, 11 and new 14 recite that the antibacterial composition is for the control of Gram-negative bacteria. Avrameas does not teach or suggest a composition for this use. Although Avrameas mentions that the subject of interest could be a pharmaceutical, such as a toxin, antibiotic or antiviral compound, Avrameas provides no guidance towards the use of an antibiotic against Gram-negative bacteria. Mostly, Avrameas teaches penetration of substances into eukaryotic cells. Applicants' specification explains (paragraphs [0003] to [0007]) that finding therapeutics against Gram-negative bacteria has been challenging because Gram-negative bacteria have an extra external membrane. This membrane protects the bacteria from antibiotics, dyes and detergents. This outer membrane also renders Gram-negative bacteria resistant to lysozyme and penicillin. Thus, one of skill in the art would not have been guided to a therapeutic against Gram-negative bacteria from Avrameas's teachings and from what was known in the art about Gram-negative bacteria at the time of the invention. One of skill in the art would not have expected to succeed as applicants have done.

CONCLUSION

Withdrawal of all objections and rejections is respectfully requested in view of the above amendments and arguments. Applicants believe all the pending claims are in condition for allowance and request an early notification of the same. The Examiner is invited to contact the undersigned at the telephone number listed below, for any reason related to the advancement of this case.

Respectfully submitted,

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